

REMARKS

Applicant has carefully reviewed the Official Action dated November 22, 2005 for the above identified patent application.

Applicant gratefully acknowledges the Examiner's indication at page 8, paragraph 12 of the Official Action that Claims 4 - 8, 10 - 11, 42, 44 - 47, and 49 - 50 are directed to allowable subject matter, and would be allowable if rewritten in independent form. These claims have been objected to as depending upon rejected base claims. In response to this objection, Claims 4, 10, 42, 49 and 50 have been rewritten in independent form. Applicant respectfully submits that Claims 4 - 8, 10 - 11, 42, 44 - 47, and 49 - 50 are now in proper form for allowance.

At pages 2 - 7 (paragraphs 2 - 6) of the Official Action, each of the pending independent Claims 1, 12, 15, and 48 have been rejected under the judicially created doctrine of obviousness-type double patenting based upon one of Applicant's previously issued patents in combination with one or more other prior art references. Terminal Disclaimers obviating these obviousness-type double patenting rejection were included with the Amendment filed on October 3, 2005.

At page 7, paragraph 7 of the latest Official Action, the Examiner states that the previously filed Terminal Disclaimers do

not comply with the applicable rules because an attorney or agent not of record is not authorized to sign a Terminal Disclaimer.

The previously filed Terminal Disclaimers were executed by the undersigned attorney on behalf of the Applicant. The undersigned attorney is an attorney of record in connection with this patent application. Enclosed is a copy of the executed Inventor's Declaration filed with the present application (which is a copy of the Inventor's Declaration previously filed in connection with related parent applications). The Inventor's Declaration expressly grants power of attorney to the undersigned. Also enclosed is a copy of the printout of the Patent & Trademark Office website showing that the undersigned remains the attorney of record in connection with the present application.

Applicant respectfully submits that the previously filed Terminal Disclaimers should be entered in that they have been executed by the attorney of record and comply with all applicable rules of practice. The entry of the previously filed Terminal Disclaimers will obviate the obviousness-type double patenting rejections raised at paragraphs 2 - 6 of the Official Action dated November 22, 2005.

At page 7, paragraph 10 of the Official Action, independent Claims 1, 15, 41, and 48 have been rejected under 35 U.S.C.

Section 102(b) as being anticipated by the McCunn et al patent (U.S. Patent No. 5,060,701).

At page 8, paragraph 11 of the Official Action, independent Claim 12 has been rejected under 35 U.S.C. Section 103(a) as being obvious over a combination of the Reed et al patent (U.S. Patent No. 5,119,972) and the Ata et al patent (U.S. Patent No. 4,746,034).

Independent Claims 1, 15 and 41 have been amended to expressly recite that the first and second valve components of the valve assembly are relatively rotatable along a single, common plane. Independent method Claim 48 has been amended in a similar manner to expressly recite that the product container is rotated relative to a valve assembly along a single, common plane. These features of the invention are illustrated by Figures 3 - 6 and 9 - 10 of the original drawings, and discussed at pages 19 - 27 of the original specification which addresses the operation of the valve assembly and valve system illustrated by the original drawings. The relative rotation of the first and second valve components of the valve assembly along a single common plane either aligns or misaligns corresponding openings in the first and second valve components to selectively open or close the valve.

The McCunn et al patent, which has been applied to reject independent Claims 1, 15, 41 and 48, operates in a manner which

is distinctly different from the valve assemblies, the valve systems and the methods of dispersing now defined by these independent claims. As disclosed by the McCunn et al patent, a dispensing valve 30 is coupled to a receiving valve 24 for relative rotation thereto (Column 3, lines 4 - 14; Column 3, lines 34 - 40; Column 4, lines 59 - 61). The dispensing valve is provided with camming grooves 58, as illustrated by Figure 7 of the drawing (Column 5, lines 40 - 44). As the dispensing valve is rotated relative to the receiving valve along the camming grooves 58, the dispensing valve is driven downwardly and towards the receiving valve (Column 3, lines 6 - 14; Column 5, lines 3 - 44). When the dispensing valve is uncoupled from the receiving valve by relative rotation in the opposite direction, the dispensing valve is driven upward away from the receiving valve (Column 3, lines 34 - 38; Column 6, lines 59 - 61). Therefore, rotation of the dispensing valve relative to the receiving valve of the McCunn et al patent (and also rotation of the product container 28 relative to the product receptacle 18), causes the receiving valve to move either towards or away from the dispensing valve, to open or close the valve. Rotation of the valve components (and rotation of the product container relative to the product receptacle) to open and close the valve occurs along different planes because the valve components are movable towards and away from each other during relative rotation as a result of the camming grooves 58.

Contrary to the disclosure of McCunn et al, the valve assemblies, valve systems and methods of dispersing product, as now expressly defined by Applicant's pending independent Claims 1, 15, 41, and 48, recite that the relative rotation of the first and second valve components (Claims 1, 15 and 41), and the relative rotation of the product container and product receptacle, occur along a single, common plane.

Independent Claims 1, 15, 41, and 48 have been rejected as being anticipated by the McCunn et al patent. It is well established that a rejection of a claim as being anticipated by a prior art reference requires the Patent & Trademark Office to establish a strict identity of invention between the applied reference and the rejected claim. Stated in other words, a rejection of a claim based on anticipation is inappropriate unless a single applied reference discloses all features of the rejected claim, as arranged in the claim. See, for example, Connell v. Sears, Roebuck & Co., 220 USPQ 193 (Fed. Cir. 1983).

Applicant respectfully submits that independent Claims 1, 15, 41 and 48, as amended herein, are not anticipated (or suggested) by the McCunn et al patent, the only reference applied to reject these claims in the Official Action as a result of the distinctly different structure and modes of operation of the McCunn et al device and the devices defined by the rejected claims.

At page 8, paragraph 11 of the Official Action, independent Claim 12, directed to a container, has been rejected as being obvious over a combination of the Reed et al patent, in view of the Ata et al patent. Applicant respectfully disagrees with this rejection. Independent Claim 12 expressly recites a container including "...at least one handle defined in said sidewall". This feature of the invention is illustrated by original drawing Figures 1 and 2, and the discussion of these drawings in the original Specification. It is apparent from the drawing figures and the Specification that the container handle is integrally formed in a sidewall of the container as a recess. This feature of the invention is not taught or suggested by either of the two prior art references combined to reject Claim 12. More specifically, the Reed et al patent discloses a handle 6 which extends downwardly from the top surface of the container (See drawing Figs. 1 - 3 and the discussion thereof in the Reed et al Specification), and does not teach or suggest a handle integrally defined as a recess in a sidewall of the container.

Applicant respectfully submits that when independent Claim 12 is viewed in its entirety and all positively recited claim limitations are considered in the patentability determination, Claim 12 defines allowable subject matter over the two prior art references combined to reject the claim in the Official Action, neither of which teach or suggest a container including at least one handle defined in a sidewall of the container, as disclosed and claimed by Applicant.

Applicant respectfully requests that the amendments herein be entered notwithstanding the final action. The revisions to Claims 4, 10, 42, 49 and 50 are directed exclusively to matters of form. These claims, which were indicated as containing allowable subject matter, have been rewritten in independent form to place these claims in proper form for allowance.

Applicant also submits that the revisions to independent Claims 1, 15, 41, and 48 clearly place those claims in condition for allowance.

Applicant respectfully submits that all pending claims are in condition for allowance, and favorable action is respectfully requested.

Enclosed is a Credit Card Payment Form to cover the fee for the five (5) additional independent claims added by the present Amendment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'M P Stone', is written over the typed name.

Mark P. Stone
Reg. No. 27,954
Attorney for Applicant
25 Third Street, 4th Floor
Stamford, CT 06905
(203) 329-3355